



CITY OF HAYWARD AGENDA REPORT

Meeting Date 09/25/03
Agenda Item 4

TO: Planning Commission

FROM: Erik J. Pearson, AICP, Associate Planner

SUBJECT: **Use Permit Application No. PL-2003-0334 – Richard Pomares (Applicant); Jim Morris (Owner):** Request to Operate a Nightclub and Bar in Conjunction with a Restaurant in the CC-C (Central City-Commercial) Zoning District

The Property is Located at 22380 Foothill Boulevard, between Russell Way and San Lorenzo Creek

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Sections 15301, *Existing Facilities* and 15303; and
2. Adopt a finding that the use is necessary for public convenience or necessity with respect to the sale of alcoholic beverages; and
3. Approve the Use Permit, subject to the attached findings and conditions of approval.

DISCUSSION:

The applicant intends to use the north half of the building located between Russell Way and San Lorenzo Creek. The building once housed a J. Magnin department store and a portion of the space in question was recently occupied by a furniture store. The owners of the building are proposing to reface the entire building exterior in an effort to improve business activity and this part of downtown¹. The building owners leased land from the City and constructed a parking lot immediately to the rear of the building to serve customers and employees of the building.

The applicant proposes to use a portion of the building for a nightclub, bar and restaurant. The proposal includes offering live music, comedians, etc., for which there would be a cover charge. It is this nature of live entertainment, coupled with a bar, that qualifies the establishment as a nightclub, for which a use permit is required.

¹ Reference Site Plan Review application # PL-2003-0503 listed as separate item on the 9/25/03 agenda.

The improvements to the building exterior proposed by the building owners include adding new windows to the north side of the building so that people will be able to look out over the creek from the dining room. The improvements proposed with the site plan review application will be required to be completed prior to operation of the nightclub.

Although the main entrance would be on Foothill Boulevard, the restaurant and nightclub would also have an entrance from the parking lot at the rear of the building. There is a small mezzanine that would be used for office space for the management and employees. The facility would feature a full-service kitchen (see menu as Attachment E) and a full bar. The applicant expects to attract people working in the downtown area for lunch and a wider clientele during nights and weekends when people may travel farther to see live music or other entertainment.

The purpose of the CC-C zoning district is "to establish a mix of business and other activities which will enhance the economic vitality of the downtown area." The proposed use would add to the variety of businesses, as there are no similar businesses downtown. The proposal is consistent with the General Plan designation for the property, which is Retail and Office Commercial. The Plan encourages the maintenance of downtown as an integrated living, working, shopping and recreational area. Land use policies in the General Plan also encourage development that provides venues for cultural vitality and opportunities for a pedestrian friendly environment. The proposed restaurant/nightclub is consistent with these General Plan policies and would provide an amenity for those who live and/or work nearby.

No parking spaces are required for the use of the existing building due to its location in the Central Parking District. Staff believes that ample parking is located nearby in the parking lot to the rear of the building (45 spaces) and in the municipal parking lot (approximately 95 spaces) located on the block between A Street and Russell Way. The use, if in a new building, would require 48 parking spaces. In addition, peak hours associated with the nightclub do not coincide with those of the surrounding daytime businesses.

Public transportation is available to patrons of the establishment. AC Transit bus route 84 passes by the site and travels through downtown to the BART station approximately a half-mile away.

The applicant intends to obtain a type 47 license, which allows the sale of beer, wine and distilled spirits from the Department of Alcoholic Beverage Control. The license would also require the establishment to maintain a minimum of 51 percent of its gross receipts from the sale of food. The proposed nightclub, defined in Section 10-1.2735(b) of the Zoning Ordinance as an Alcoholic Beverage Outlet, is subject to approval of a use permit. This section of the Ordinance also requires that no on-sale liquor establishment shall be established or maintained within a radius of 100 feet of any off-sale liquor establishment, or of any school, public park, library, playground, recreational center, day care center, or other similar use within the Central City Zoning District. This Section also requires that no more than two on-sale liquor establishments shall be permitted per block side or face.

There are no on-sale liquor establishments within 100 feet of the site and there are no other on-sale liquor establishments on the subject block face. There are also no schools, parks or other similar uses within 100 feet of the proposed facility.

The State Department of Alcoholic Beverage Control (ABC) has determined that there is an over-concentration of off-sale liquor licenses within this census tract². Their records indicate that there are currently 38 active on-sale licenses where 6 should be allowed. The number of on-sale licenses is due in part to the large number of restaurants downtown. The downtown area is the part of the City where eating establishments with on-sale licenses should be encouraged. ABC uses a per capita ratio to determine the number of licenses that should be issued for a certain census tract. Being located downtown, customers may be attracted from other parts of the City as well as from other cities. Furthermore, many more units of multiple family residential housing are planned or are under construction in the downtown area. As these units are occupied, the number of alcohol establishments per capita will be reduced. Finally, the Zoning Ordinance requires at least 500 feet between off-sale establishments in other zoning districts, but requires only 100 feet between on-sale establishments within the CC-C district. The intent of the Zoning Ordinance is to have a higher concentration of on-sale licenses within the downtown area.

If the use permit is approved, the Department of Alcoholic Beverage Control (ABC) will ask the City to prepare a letter stating that the sale of alcoholic beverages is necessary for the public convenience or necessity. Staff would support this action in that the proposed restaurant and nightclub would help to enhance the vibrant atmosphere of downtown.

The Planning Commission has made the required finding for ABC to allowing the on-sale of alcoholic beverages at two other locations in the same census tract. One, the Turf Club at 22519 Main Street was approved in 2000 and another; a wine shop at 742 B Street (not yet operating) was approved in 2002.

ENVIRONMENTAL REVIEW:

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Sections 15301, *Existing Facilities*.

PUBLIC NOTICE:

On June 11, 2003, a Referral Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to other City Departments, the Hayward Chamber of Commerce, Hayward Downtown Business Improvement Advisory Board, Hayward Area Planning Association and CommPre. The Referral Notice provided an opportunity for persons to comment on the project. Staff received one letter from CommPre opposing the application. The letter raises concerns about patrons driving under the influence, loitering and creating disturbances in the area. The Police Department has indicated they support the use, subject to the attached conditions, which include requirements for security, hours of operation and hours that minors may be allowed in the establishment.

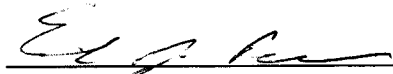
² Census tract 4354 extends from the northerly side of Jackson Street and E Street to the south side of Grove Way between Fourth Street on the east and the BART tracks to the west.

On September 15, 2003, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to help notify neighbors and interested parties residing outside the 300-foot radius.


CONCLUSION:

The proposed project is consistent with adopted land use policies of the General Plan. The project also meets all applicable requirements of the Zoning Ordinance and other applicable ordinances. Staff recommends that the Use Permit be approved.

Prepared by:

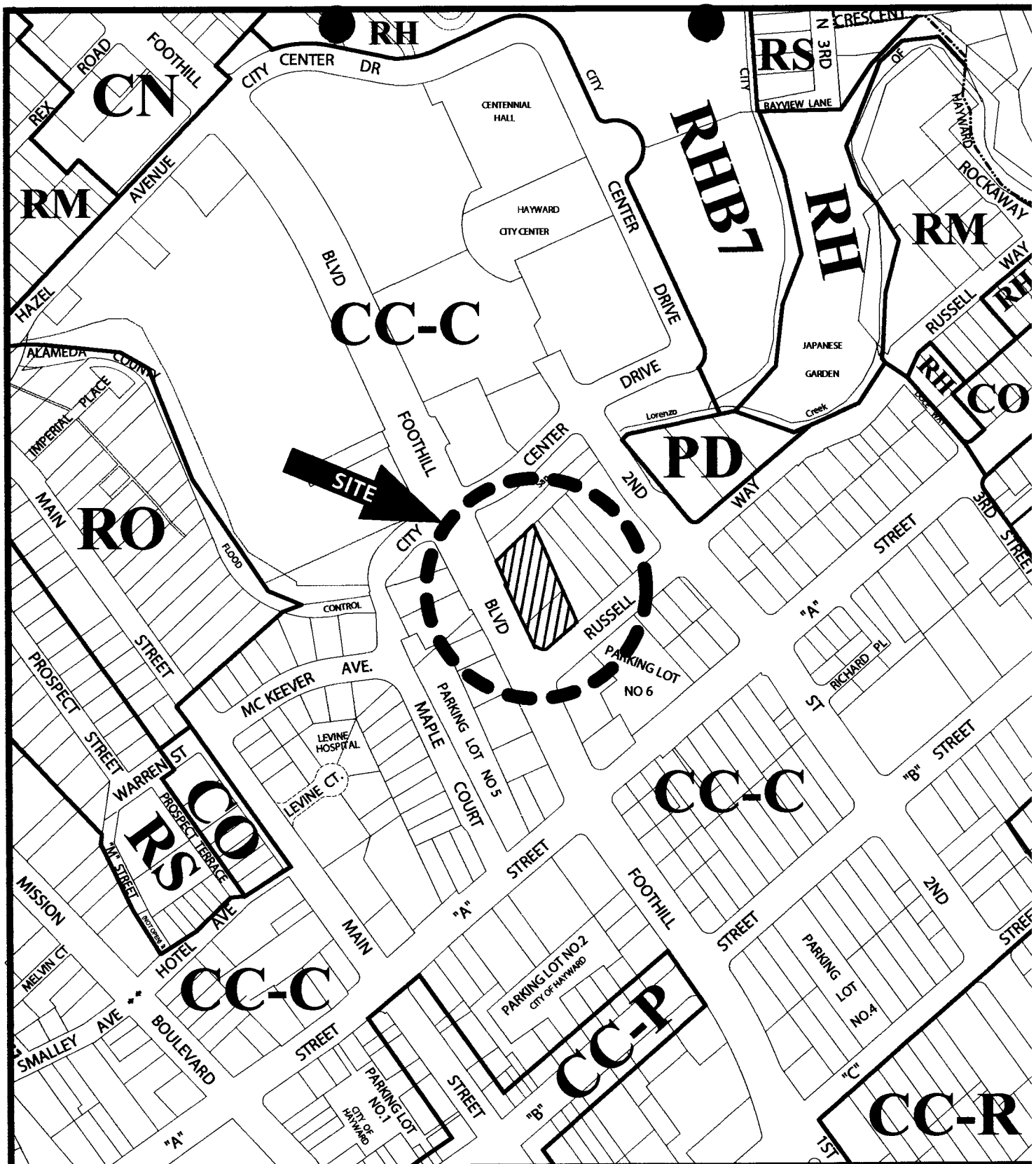

Erik J. Pearson, AICP
Associate Planner

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area & Zoning Map
- B. Findings for Approval
- C. Conditions of Approval
- D. Written proposal from applicant
- E. Sample Menu
- F. Letter from COMMPRE dated June 30, 2003
Plans



Area & Zoning Map

PL-2003-0334 UP

Address: 22380 Foothill Boulevard

Applicant: Rich Pomares & Alex Aguilar

Owner: Jim Morris

CC-C-Central City-Commercial

CC-P-Central City-Plaza

CC-R-Central City-Residential

CN-Neighborhood Commercial

CO-Commercial Office

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RO-Residential Office

RS-Single-Family Residential,RSB4,RSB6



FINDINGS OF APPROVAL

USE PERMIT APPLICATION NO. PL-2003-0334

Richard Pomares (Applicant); Jim Morris (Owner)

22380 Foothill Boulevard

Request to Operate a Nightclub and Bar in Conjunction with a Restaurant.

General

- A. The approval of Use Permit application No. PL-2003-0334, as conditioned, will have no significant impact on the environment, cumulative or otherwise. The project reflects the City's independent judgment, and the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Sections 15301 of the CEQA Guidelines (*Existing Facilities*).

Use Permit

- B. The proposed use is desirable for the public convenience or welfare in that, with the proximity to downtown and the municipal parking lots, the proposed business would help promote a lively, pedestrian-friendly atmosphere downtown.
- C. The proposed use will not impair the character and integrity of the zoning district and surrounding area in that the conditions imposed on the operation of the nightclub will ensure safe and orderly conduct.
- D. The proposed use will not be detrimental to the public health, safety, or general welfare in that the use would adhere to all of the operational requirements subject to alcoholic beverage establishments so that the establishment would be a high quality addition to downtown Hayward. The proposal meets the Zoning Ordinance separation requirements for on-sale licenses.
- E. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved. The Retail and Office Commercial General Plan designation and the Central City-Commercial zoning district both support restaurants and entertainment venues.

Additional Findings for Alcoholic Beverage Establishments

- F. The proposed use will not result in an undue concentration in the area of establishments dispensing alcoholic beverages in that the nearest on-sale establishment is over 100 feet away.
- G. The proposed use will not detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential

ATTACHMENT B

structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses. The nearest residential use, Casa Sandoval is over 300 feet from the site.

- H. There is not another alcohol beverage establishment on the block face and the proposal is well over the required 100 feet from the nearest library, park or off-sale establishment.
- I. Although, according to the State Department of Alcoholic Beverage Control the census tract has an over-concentration of on-sale and off-sale licenses, the proposed use is necessary for public convenience or necessity in that it would provide a high quality eating, drinking, and entertainment establishment.

CONDITIONS OF APPROVAL

USE PERMIT APPLICATION NO. PL-2003-0334

Richard Pomares (Applicant); Jim Morris (Owner)

22380 Foothill Boulevard

Request to Operate a Nightclub and Bar in Conjunction with a Restaurant.

General:

1. Application Nos. PL-2003-0334 is approved subject to the conditions listed below. This permit becomes void one year after the effective date of approval, unless prior to that time a business license has been issued, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to the above date.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
4. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.
5. The establishment shall operate only as a License Type 47 per the state Department of Alcoholic Beverage Control regulations.
6. All improvements indicated on Exhibit "A", are hereby approved and must be installed prior to authorization for final building occupancy. In addition, all improvements shown on Exhibit "A" of SPR-PL-2003-0503 shall be completed prior to occupancy.
7. All signs shall comply with the Sign Ordinance regulations for the Central City-Commercial Zone District and the sign program approved by SPR-PL-2003-0503. Prior to installation of any signs, sign plans and a sign permit application shall be submitted for approval by the Planning Director.
8. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public.
9. Exterior lighting shall be provided which is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties.
10. No pay phones shall be permitted on the exterior of the building or premises.
11. Commission by the permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the location where the offense was committed

ATTACHMENT C

or where there is a direct correlation between the permittee's establishment and the criminal offense; and 2) such criminal offense is found to be detrimental to the public health, safety, or general welfare shall be independent grounds for revocation of this permit.

12. The establishment shall maintain trash and garbage storage areas that are enclosed by a solid fence or wall and screened from the view of abutting properties or the public right-of-way.

Solid Waste & Recycling:

13. This approval is subject to the requirements contained in the memo from the Solid Waste and Recycling Division of the Public Works Department dated 6/13/03.

Engineering:

14. Any broken sidewalk along the property frontage that creates a tripping hazard shall be removed and replaced.

Fire Department:

15. A fire sprinkler system (Light Hazard for seating area and Ordinary Hazard Group 1 for service areas), shall be installed per NFPA 13 Standards. The buildings' existing fire sprinkler system (within the basement level only) shall also be upgraded to meet current codes and standards.
16. A manual fire alarm system shall be installed throughout the building. Design and installation shall be per CFC, Article 10 and NFPA 72 Standards.
17. Provide fire protection for all commercial cooking equipment (hood and exhaust ducting). Fire protection systems shall meet NFPA 96 Standards for installation.
18. Provide portable fire extinguishers throughout the building with a minimum rating of 2A:10BC. The kitchen shall have Class K type fire extinguisher(s) within 30' of the cooking equipment. Portable fire extinguishers shall be installed in locations as approved by the Fire Department.
19. Interior exiting and exit lighting shall meet the CBC, Chapter 10.
20. Exit plans shall be posted in appropriate locations.
21. Occupant load signage shall be installed in applicable dining areas within the restaurant. Final occupant loads shall be determined on the plans by the architect and shall reflect both a seating factor (15 sq.ft. per person) and a standing factor (7 sq.ft. per person).
22. Interior decorative materials shall be flame treated.
23. Building construction for A2.1 occupancy shall meet the CBC and other applicable city standards and ordinances.
24. An annual permit for Place of Assembly shall be obtained prior to certificate of occupancy.

Police:

25. The sale, service and consumption of alcoholic beverages shall be permitted only between the hours of 10:00 AM and 12:00 AM each day of the week.
26. Minors are not allowed in or on any portion of the business under control of licensee(s) after 9:00 PM each day of the week. This includes all areas of the property including the building, patios and parking lots.
27. Music, live or recorded, is permitted between the hours of 9:00PM until 1:00AM of the following day, each day of the week. No noise from said entertainment shall be audible from the exterior of the premises.
28. Between the hours of 9:00 PM through 1:00 AM of the following day every Thursday, Friday and Saturday, the licensee(s) shall provide 7 uniformed security guards licensed by the California State Department of Consumer Affairs. This requirement may be increased or decreased at the discretion of the Chief of Police.
29. The sale of alcoholic beverages for consumption OFF the premises is strictly prohibited.
30. Consumption of alcoholic beverages outside of the main building is strictly prohibited.
31. Licensee(s) shall post and maintain on the premises and in the parking lot used in conjunction therewith notices or signs, no less than eighteen inches by twenty-four inches (18"x 24") in size, clearly visible to the patrons of the licensee(s) and parking lot to persons on the public sidewalk stating in 2 inch block lettering the following:

NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES

32. Licensee(s) shall post and maintain on the premises and in the parking lot used in conjunction therewith notices or signs, no less than eighteen inches by twenty-four inches (18"x 24") in size, clearly visible to the patrons of the licensee(s) and parking lot to persons on the public sidewalk stating in 2 inch block lettering the following:

NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THESE PREMISES

33. The exterior of the premises, including adjacent public sidewalks and all parking lots under control of licensee(s), shall be illuminated during all hours of darkness during, which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel. However, the positioning of such lighting shall not disturb the normal privacy and use of any neighboring residences.
34. The licensee(s) shall be responsible for removing graffiti from the premises under the control of the licensee(s) within 72 hours of application. If the graffiti occurs on a Friday, weekend day or holiday, the licensee shall remove the graffiti 72 hours following the beginning of the next weekday.
35. The licensee(s) shall be responsible for maintaining the area adjacent to the premises, over which they have control, free of litter.

36. Pay telephone(s) maintained on the interior of the premises shall be limited to outgoing calls only.
37. At all times when alcoholic beverages are available, food prepared in the kitchen must also be available to customers.
38. The front door(s) shall be kept closed at all times during the operation of the premises except in the cases of emergency and to permit deliveries. Said door(s) not to consist solely of a screen or ventilated security door.
39. The owner of the establishment shall be responsible for the hiring of entertainers. The night club facility may not be rented to an outside independent promoter.
40. Noise generated by the establishment or its patrons shall not exceed ambient noise levels beyond the area under the control of the licensee.
41. There shall be no adult entertainment as defined by Zoning Ordinance Section 10-1.2735 (a). In addition, there shall be no fashion shows unless authorized by the Chief of Police and the Planning Director.

Revocation:

42. Violation of any of the above conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.

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**Business Plan
&
Layout Design**

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PLANNING DIVISION

ATTACHMENT

1.0 Executive Summary

This facility will be the premier, high-energy, themed dance, entertainment facility, and restaurant in the Bay Area. Remember the adage "You can please all of the people some of the time and some of the people all of the time"? In today's hospitality environment, an evolution is beginning and we will create a new option – please all of the people all of the time! How? With the proper balance of enthusiasm, efficiency, and a knack for being eclectic, we are now going to offer something for everyone under one red hot, revenue-filled roof. It's a new regime, where true sports enthusiasts and dance floor devotees can mingle with the lounge crowd happily each and every day. Consider segmenting environment and entertainment and the rewards can be sensational.

Main objectives for the continued development

- Capitalize on excellent location opportunity with swift commitment to the new downtown development.
- To launch highly publicized grand opening event in 2003 with some of the big names in the entertainment industry.
- To maintain a food cost below 33% of food revenue.
- To exceed \$5 million in annual net revenue by 3rd year of plan implementation, and expand to other cities.
- Create and maximize all marketable venues to assure the constant financial growth of company.

The keys to success in achieving our goals are:

- Provide exceptional service that leaves impression
- Consistent entertainment atmosphere and product quality
- Managing our internal finances and cash flow to enable upward and capital growth.
- Strict control of all costs, at all time, without exception

2.0 Company Summary

The key elements of the companies' concepts are:

- 1) Entertainment and dancing based themes – 238 will focus on themes that have mass appeal.
- 2) Distinctive design features – We will be characterized by the elaborate entertainment facility, situated in a spectacular setting which comfortably accommodates plenty of guests. The area will also offer special set-ups, which can be combined for use in a conferences, business meetings, seminars, fundraisers, receptions or private parties. The adjoining restaurant and bar would present an inviting and relaxing atmosphere.
- 3) Location, location, location – One of the major advantages that we will have over competition will be its location in the redeveloping downtown area of Hayward.
- 4) Gaming – 238 will implement several interactive style video games and pool tables, as well as dart boards for additional entertainment revenue.
- 5) Quality food – All would be lost without special attention being paid to the level of food quality. A menu offering foods similar to those found at a premier restaurant. Traditional appetizers will be offered for people craving nachos, wings, or other items while they drink and enjoy themselves.
- 6) Comedy – We will create a night like no other, which will offer some of the big names in comedy to come and perform. This will help to create and sustain a name and a nitch for us in this market.
- 7) Live Bands – On certain nights we will have arrange for bands and groups to entertain people near and far.
- 8) Sports Venue – Create a sports palace like no other that brings people in on off nights to watch their favorite sports and teams, while enjoying good food and cocktails.
- 9) Exceptional Service – In order to reach and maintain a unique image of quality, we will provide attentive and friendly service through a high ratio of service personality to customer and we will also invest in the training and supervision of our employees. We estimate nearly one service staff member for every 35-40 guests.
- 10) Retail Outlet – 238 will also have a retail section in the facility, that will sell products with our logos, clothing of all sorts, Raiders and A's tickets, and a internet-locator watch designed for children, so that their parents may go on line and know exactly where their children are at all times.

2.1 Company Ownership

238 will be owned and managed by a corporation under the name of Downtown Management. The newly formed corporation will consist of directors, a president, a secretary, and a chief financial officer. The structure of the corporation is still in progress.

Directors already assembled are:

1.) Ed Pope – Mr. Pope will help with his experience in this industry and will coordinate with Mr. Pomares on the day to day operations that will make 238 the most ventured business in the Bay Area. Mr. Pope has been in this industry for twenty years and at present, owns some of the biggest facilities in this industry.

2.) Richard Pomares – Mr. Pomares will also direct and help 238 stake its name as the leading money maker in the industry. Mr. Pomares, also has experience in this industry of seven years and brings a burst of enthusiasm, as well as the capability of creating the environment that will keep people from all walks of life enjoying the 238 experience for years to come. Mr. Pomares initially receive a salary and after one year's time or sooner, depending on time span for all investors to receive initial principle, Richard shall receive ownership shares in corporation.

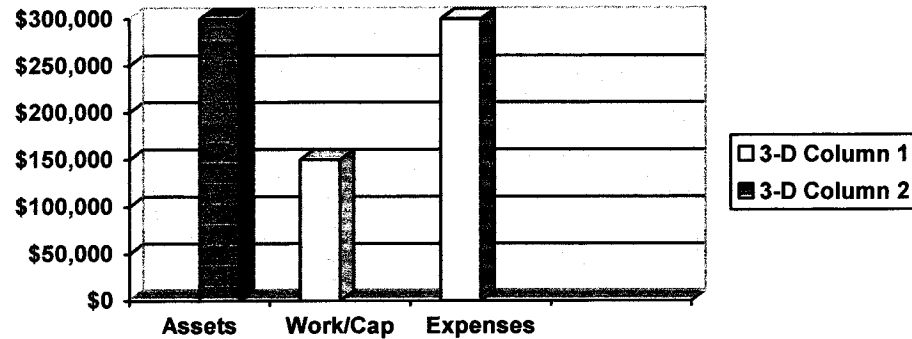
3.) Lennie Chiu – Mrs. Chiu will head up our Human Resource Department and maintain a high standard for all of our company's customers, as well as our clients and employees.

Downtown Management Group will be a subsidiary of DTR and together hand in hand they shall establish a new standard for all the markets we venture into.

2.2 Start – up Summary

Downtown Management is seeking funds in the amount of \$750,000.00 dollars to accomplish the rest of the build-out of the facility and purchase the necessary equipment and also start-up capital to get this venture through the first month of operation. The following chart below illustrates the capital requirements for this project.

Start-Up Cost



3.0 Business Description

The emergence of the downtown area in Hayward represents a unique opportunity for this venture. The development's central location, demographics, and lack of direct competition are major advantages to this project. The proposed venue will provide a local solution to the lack of social atmosphere and live sports venue geared primarily toward the 21 and over age group in the Bay Area, and will help keep late night entertainment expenditures within the localized region.

The new venue will specialize in high – energy themes, a quality video and gaming area, and will offer beer, wine and an array of liquors and mixed drinks. In addition, the venue will sell non-alcoholic beverages such as soft drinks, juices, and bottled water, as well as an extensive food menu that will be available at all hours of operation. This establishment will draw from the Hayward market as well as the attracting patrons from all cities in the Bay Area.

238 will also have a retail outlet, located in this facility and will sell and distribute an array of marketable items. Currently this feature is still in the initial phases, but some of the retail items will be:

- 1.) We will become a ticket outlet for all Oakland Raiders and Oakland Athletic home games.

- 2.) A possible sporting goods wholesaler, with the capability of providing Teams of all sports and ages with uniforms and the necessary equipment to compete in their respective sports.
- 3.) We will also become the only retail facility to carry a new watch with the technology of tracking. We are working with a company and should have a fully operational prototype in the next month or so. This will be a very marketable item, so that parents can go on-line at any time or place and find the exact location of their children.
- 4.) We will also carry our own product line that will feature various items and clothing with our own logo, as well as possibly marketing our own food product line.
- 5.) Credit management – We shall provide and extend credit to qualified company's and individuals for all retail supplies. These supplies will include a vast array of marketable items, such as, our own product line, sports attire, separate clothing line, tracking watch, uniform clothing line and assembly for all sports affiliates as well as all companies. Those are just some of many items we will market and carry.

4.0 Market Summary

The concept and management of this project has been well received, by the city and the public community of Hayward. Hayward has an immediate trade population of 150,000 people with a secondary population (within 20 minutes) of 3 million plus. Foothill Blvd has an average daily traffic count of 50,000 plus and will continue to increase at an extreme rate. Within a quarter mile of the facility there is a freeway connection that enables our patron's easy arrival and departure access for easier traveling. In the not so far off future there will be a Cinemark and IMAX Theater opening just 2 blocks away from our venue, which will help in the promotion of ' 238 .

The project will be a 15,000 square foot facility, which will also house the company's corporate business office. The entertainment facility will accommodate 1,200 people. With the Bay Area's rapid growing population, this business would create mass appeal for all customers and all ages. 238 will be equipped with state-of-the-art audio and video system like none found in the Bay Area. The general appearance will be clean, open, and pleasing to the customer.

4.1 Market Segmentation

We see this venture appealing to three major market segments. Fortunately, the hours of operation help the project lend itself to multiple segment appeal. Our market segmentation scheme allows us some room for estimated and non-specific definitions;

- 1.) Childless young professionals – Due to our proximity to the new Theater, we must appeal to single adults and young couples. Whether it is a group of friends or a couple out to see a movie together, these people need a place to eat/drink either before and/or after their movie. These customers will range in age from 21 to 50. 238 will appeal to this category by switching the tempo and entertainment to be more appealing to adults as it gets later into the evening. We also anticipate a 10 to 15 percent annual growth rate in tandem with the growth rate of the Bay Area and through increased popularity of the business.
- 2.) College Students – By creating an environment that is more appealing to college students, we secure a natural progression between the high school student and the young professional. Through word of mouth, we project an increase of roughly 6 to 9 percent annually from this segment.
- 3.) Tourists & Business Travelers – More and more business travelers and tourists are finding their way to and through Hayward and the bay Area every year. We plan to reach people through direct marketing to local and semi-local Hotel and Motel patrons. We anticipate a 10 to 15 percent annual growth rate in this segment. As our relationship grows with the local Hotels, so too will the word of mouth recommendations from the hotel staff as well as the patronizing of our restaurant, by their families. Our future plan is to publish an extensive website in order to create awareness to any traveler who wants to take an advanced look at the facility, before they visit.

Downtown Management will market this facility to people of all ages, with the three listed hereinabove being the most likely to visit more than one or two times a week.

4.2 Target Market Strategy

Our strategy is based on serving our niche markets exceptionally well. The nighttime enthusiast, the tourist, business traveler, the local restaurant crowd, the local service industry, and the groups going out together can all enjoy and be a part of the 238 experience. The marketing strategy is essential to the main strategy;

- Emphasize exceptional service
- Create awareness of our unique features

- Focus on our target markets

We must charge appropriately for the high-end, high-quality service, and food that we will offer. Our revenue structure has to match our cost structure, so the wages we pay and the training we will provide to assure superior quality and service, so that it is all balanced by the fees we charge.

Part of the superior experience we will offer is the creativity and simplicity of the food menu. While being unique, they will be relatively inexpensive and easy to prepare. Even though premium is appropriate for the experience, the pricing has to be balanced in accordance with what we serve. All menu items will be moderately priced. We expect an average guest expenditure of \$12.50 for beverages and \$ 8 to \$12 for the percentage of our guests who take advantage of our food menu. Our target customer spends more than the industry average for the moderately priced establishments. This is due to our creating an atmosphere that encourages longer stays and more spending, while still allowing adequate table turns, due to extended hours of appeal.

4.3 Service Business Analysis

Sports themed and live entertainment, such as live bands, comedy shows, karaoke, and even interactive event venues have significantly impacted cities from coast to coast in the 90's and early into the new millennium. These venues are still one of the highest cash flow businesses in the world. Our localized studies have shown that the average person will spend 3 to 4 hours per weekend in this type of environment and will spend an average of \$25 to \$50 dollars in that same time frame. As we approach newer times, this trend shows no signs of declining.

The typical venue of our style, will have our establishment open long hours, and within this time frame, the venue can achieve high gross revenues daily. The primary sources of revenue in a venue of this type are high volume traffic, coupled with great spending. In addition to alcohol revenues, we will also generate substantial revenues from food sales that can typically range from \$7 to \$10 dollars per person. Simple concepts are still popular today, however, these concepts have greatly evolved with society. In recent years the industry has become more sophisticated with the availability of new technology. Larger venues like ours have taken this technology to new heights with, video, and interactive designs that create an exciting and memorable experience. Fortunately, no one in the Bay Area has been a pioneer in this specific segment of the industry.

4.3.1 Main Competition

The entertainment competition lies mainly with other casual facilities and less with the conventional and chain entertainment establishments. We need to compete with the idea that you can't get good service anymore, while maintaining, the idea that being out, can be a lot of fun. Our polling has indicated that consumers think of atmosphere, price, and quality respectively. Additionally, price was frequently mentioned by pointing out that if the former concerns are present then they are willing to pay more for the experience.

There are currently no facilities within direct competition with 238, with several being located over 20 minutes from our location, and none of those having the capability to attack all the different venues that we have to offer the public. All other facilities are mainly just nightclubs, which means that they are only open after 9:00 pm and only on the weekends. We will be open 7 days a week, and in essence there is no competition, since we are not a nightclub and we offer an array of marketable choices for the public to enjoy.

5.0 Strategy & Implementation Summary

In order to create more popularity in the place we must emphasize on exceptional service. Our main tactics are monthly service training, employee recognition, and higher service employee to customer ratios. To achieve higher service employee to customer ratios, we must separate beverage servers and bussing personnel, as well as maintaining a comfortable table count for the wait staff. Our second strategy is emphasizing entertainment. The tactics are interactive entertainment, constant sensory appeal, and unique event viewing. Our specific programs for interactive entertainment and constant sensory appeal are frequent contests, games, and music.

Our promise fulfillment strategy may be our most important. The necessary strategy is ongoing value based training, maintenance, and attention to all details, especially after popularity has been established. Through empowerment of service employees to solve problems without making a customer wait for management consultation, we create a win-win situation for the customer and the facility. Continuous and never-ending improvement is the order of the day through our regular training sessions and meetings.

Since value is equal to service rendered minus the price charged, it is crucial to go beyond the mere serving of food in a room full of customers, you have to create a long lasting impression.

5.1 Marketing Strategy

A high growth area such as Hayward and the Bay Area, have an annual influx of new residents from many other parts of the country. This trend is generally true of all places in California. Advertising budgets and event promotions are ongoing processes of management geared to promote the brand name and keep 238 at the forefront of the entertainment themed facilities in the Bay Area. We depend on radio advertising as our main way to reach new customers. Our strategies and practices will remain constant, as will the way we promote ourselves.

238 will create a bigger identity-oriented marketing strategy with executions particularly in radio media, alongside print ads, and in-store promotions.

5.2 Sales Strategy

Sales projections for this plan are presented in the following topics:

5.2.1 Sales Forecast

This chart represents our forecast for income on a monthly Basis.

Some areas of this venture are not calculated in projections and forecasts. The retail aspect is unknown, but we have a very optimistic view.

6.0 Management Summary

The management will be the most important factor for the continued success that we know 238 will achieve. It is important that we maintain a team that can produce and sustain the level that 238 should and will reach. Management that is brought on, should obtain similar training, that our regular employees, to guarantee a constant level of productivity and leadership.

6.1 Management Team

1.) Robert Matsui – Shall be retained as Restaurant Manager. Robert is currently managing a facility called Fuzios and has also ran two Sizzlers in the past. He shall run all day-to-day operations for restaurant and create all items on the menu.

- 2.) Bryan Crawford – Will head up Assets Protection Team, which will protect all inventory, revenues on daily basis, as well as all customers entering and leaving our establishment. Bryan is currently employed by Mervyn's Corporation in the same capacity.
- 3.) Jason Wright – Manage all details that come with and in the area of payroll and accounting. Jason is currently employed by the biggest data processing payroll company as a District Manager.
- 4.) Michelle Shaw – Act as a security consultant. She will handle aspects relating to all security guidelines and deal with the City and or the Police department for all meetings that we would be required to attend. Michelle is currently employed by Alameda County as a Fraud Investigator.
- 5.) Doreen Flores – Shall handle all marketing, promotions, and sales, and advertising for 238. Doreen is currently employed as a Sales Manager for one of the biggest media companies in the state.
- 6.) Keith Souza – Keith will handle all Charity and Fund Raising events that 238 will promote or cater in and out of the facility. Keith is currently employed by the Hayward School District.
- 7.) Richard Pomares – Richard will be Facility Manager. As Facility Manager, he will guide and oversee all operations, and help assure the bright future of this company and project. Richard is currently employed by one of the huge corporations in the Food& Entertainment industry.

6.2 Management Team Gaps

We believe we have a solid team constructed in order to cover the main points of the business plan. Management growth through training will be an ongoing component of 238's priorities. We also realize that we may benefit greatly from the retention of a hospitality industry consultant to guide us through our beginning phases and for the first one to two years. In that respect we have brought in someone who has been in this industry for twenty years and has started and currently owns several facilities. That person is Ed Pope, who will also own shares in the corporation to insure the constant growth of this company, in the beginning and in the future as well.

6.3 Personnel Plan

Our staff shall hire all necessary employees for the day to day operations of 238 a month before opening. All employees shall go through a two to three separate interview process and a thorough background check by our security consultant. A majority of our staff will be hired locally.

two-thirty-eight

All Dinner Entree
Served w/ soup or salad

HOUSE SPECIAL PRIME RIB:

King Size.....\$12.95
Queen Size.....\$10.95
Served creamy horse radish
baked potato & Veggie

T-BONE STEAK \$12.95
W/Baked Potato & Veggie
NEW YORK STEAK \$12.95
W/Baked Potato & Veggie
TOP SIRLOIN STEAK \$11.95
W/Baked Potato & Veggie
STEAK RANCHERO \$10.95
W/Onion, Mushrooms, Bell Peppers, &
Tomatoes, Rice and Refried Beans.
SALISBERRY STEAK \$9.95
W/Mash Potato, Mushroom Sauce

SEA FOOD

SALMON FLORENTINE \$12.50
Delicious spinach sauce w/Rice
BAKED HALIBUT \$12.95
W/Special Sauce.
PRAWNS A LA PANNA \$12.95
W/Scallions
COMBO SEAFOOD A LA GRIGLIA \$14.95
Halbut, prawns scallops, special sauce rice and veggie

PASTA

FETTUCINI PRIMAVERA \$9.95
W/Chicken, Served w/Veggies
SPAGHETTI W/MEAT SAUCE \$8.95
SPAGHETTI GARLIC BUTTER \$8.95
SEA FOOD LINGUINI \$9.95
W/Salmon, Prawns & Clams.
White or Red Sauce
PENNETOSCANA \$9.95
W/Chicken, Artichoke, Mushrooms, Bell Peppers,
Onions, Olives, & Red Sauce
CHEESE TORTOLINI AL PESTO CREAM
SAUCE \$9.50
HOT TURKEY OR BEEF \$8.95
w/ Mash Potato & Gravy

HOUSE SPECIAL
CHICKEN & STEAK
Broiled Breast of Chicken & Top Sirloin
..... \$12.95.....

CHICKEN PARMESANI \$10.95
Breaded Breast of Chicken
Served w/Spaghetti & Veggie
CHICKEN SCALLOPINI \$10.95
Breast of Chicken sauteed
W/Basil, Tomatoes, Mushrooms, White Wine Served
w/Rice
CHICKEN PICATA \$10.95
Breast Of Chicken sauteed
W/capers, lemon, white wine.
Served W/Rice
MEXICAN CHICKEN \$9.95
Breast of Chicken sauteed
W/Spicy Sauce Served W/Rice & Veggies
BEEF & CHICKEN ENCHILADAS:: \$9.95
W/Refried Beans & Rice

APPE TIZERS

NACHO MACHO \$6.95
Choice of Beef or Chicken
Guacamole, Sour Cream, Tomatoes, Jalapenos, Olives
SHRIMP COCKTAIL \$7.95
BUFEALO WINGS \$5.95
Served W/Celery Sticks & Louisiana Sauce
CHICKEN QUESADILLA \$6.95
W/Salsa Marinara, Guacamole, &
Sour Cream.
GARLIC BREAD \$2.95

SALAD

CHICKEN CEASAR \$7.95
Breast of chicken, romain lettuce, tomato,
cucumber, hard boil egg and ceasar dressing
CHEFF SALAD 7.95
Turkey, ham on green salad, tomato, cucumber,
hard boil egg, cheddar cheese & Jack cheese
SHRIMP LOUIS \$8.50
Green Salad with baby shrimp tomatoes
cucumbers hard boiled egg.
COBB SALAD W/TURKEY \$8.50
Green salad, dice tomatoes, bacon, egg, green
onions, jack cheese

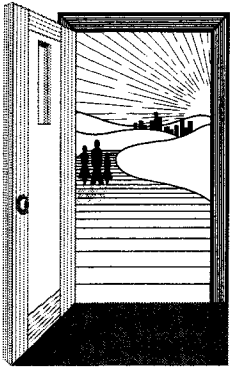
June 30, 2003

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JUL 01 2003

PLANNING

COMMPRE



Erik Pearson
Planning Department
City of Hayward
777 B. Street
Hayward, CA 94541

Subject: 22380 Foothill Blvd, PL-2003-0334 UP

Dear Erik Pearson:

22652 Second Street
Hayward, CA 94541
(510) 247-8207
(510) 247-8210 fax



A program of
Horizon Services, Inc.

This letter serves as our preliminary recommendations for the application at 22380 Foothill Boulevard to operate a nightclub/bar in conjunction with a restaurant.

In October of 2002, Community Prevention of Alcohol-Related Problems (CommPre) and Hayward Citizens for Responsible Liquor Outlets (HCRLO) met with two prospective applicants interested in opening Island Paradise Restaurant, Sports Bar and Supper Club at 22380 Foothill Boulevard. Their proposal was very similar in concept to this current application in question. Input from HCRLO and other community residents indicated opposition to a nightclub at this location. Residents from Casa Sandoval, the senior residential facility directly behind the premises, strongly opposed a nightclub because it would disturb their quiet enjoyment.

In addition, it was noted that the premises is located on a major thoroughfare. Closing hours of a nightclub would be around 2am, which would add to the risk patrons driving after drinking under the influence, as well as loitering and creating other disturbances to the surrounding area. The potential problems associated with any nightclub or bar in this location precipitated us to recommend opposition to the proposed Island Paradise establishment.

Based on information gathered about the previous proposed application, at this point we are not in favor of the application. However, we have yet to meet with the applicants, nor have we received a more comprehensive business plan including a market study, architectural design and report on the impact on the community of this establishment. We wish to convene a meeting with the applicants, HCRLO and other members of the community and review further business plans prior to making additional recommendations.

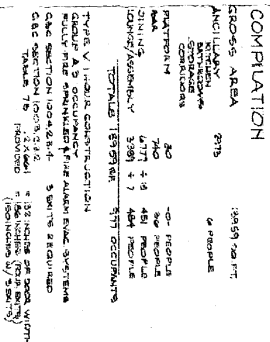
Please contact me at 510-247-8207 if you have any questions. Thank you for your consideration.

Sincerely,

Linda Pratt
cc

Linda Pratt
Program Director

Cc: Everest Robillard, Alcoholic Beverage Control



AI

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MULLEN · MORRIS · ALEXANDER
DESIGN ARCHITECTURE
1600 B STREET, HAYWARD, CA. 94541 (510) 538-7766

NC. 238 RESTAURANT @ HAYWARD COMMONS
22580 FOOTHILL BOULEVARD
HAYWARD, CA. 94541